

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CODON DEVICES, INC., DUKE)
UNIVERSITY, and the MASSACHUSETTS)
INSTITUTE OF TECHNOLOGY,)
Plaintiffs,) C.A. No. 07-148 (JJF)
v.)
BLUE HERON BIOTECHNOLOGY, INC.,)
Defendant.)

STIPULATION AND ORDER OF DISMISSAL

The parties to the above-entitled action, by and through their respective attorneys, pursuant to Fed. R. Civ. P. 41(a)(1)(ii) hereby stipulate to dismiss this action in its entirety WITH PREJUDICE, subject to the terms and conditions of the Settlement and License Agreement by and between all parties, dated March 26, 2008. Each party shall bear its own costs, expenses and attorneys fees.

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SO ORDERED this 6 day of October, 2008.

Joseph J. Tawen Jr.
J.J.